

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JAMES ANTHONY TOLAN,

Plaintiff,

v.

RENO POLICE OFFICER AMANDA
HARTSHORN; et al.,

Defendants.

3:10-cv-0017-LRH-WGC

ORDER

Before the court is defendants Reno Police Officer Amanda Hartshorn (“Officer Hartshorn”); Reno Police Officer Michael Barnes (“Officer Barnes”); and the City of Reno’s (“City”) (collectively “defendants”) motion to strike, or in the alternative, to take the deposition of non-party Matthew Baker (“Baker”). Doc. #87.¹

Plaintiff James Anthony Tolan (“Tolan”) filed a civil rights complaint against defendants arising out of an arrest in which Tolan broke his leg. Doc. #1, Exhibit 1. Defendants filed a motion for summary judgment. Doc. #80. In response, Tolan filed an opposition in which he relied on a declaration by non-party Baker as well as a video allegedly taken by Baker at the time of the incident. Doc. #83.

Defendants sought to depose non-party Baker. However, Baker failed to show for his regularly scheduled and noticed deposition. *See* Doc. #87, Exhibit D. Thereafter, defendants filed

¹ Refers to the court’s docket entry number.

1 the present motion to strike the declaration of Baker, as well as the alleged video evidence, or allow
2 defendants to depose Baker and supplement their motion for summary judgment. Doc. #87.

3 Plaintiff Tolan does not oppose allowing defendants to depose non-party Baker at this time
4 after the close of discovery and both parties' counsel have stated affirmatively to the court that they
5 are willing to work together to depose non-party Baker. Accordingly, the court shall grant
6 defendants' motion and allow them to depose non-party Baker.

7
8 IT IS THEREFORE ORDERED that defendants' motion to strike, or in the alternative, to
9 depose non-party Matthew Baker (Doc. #87) is GRANTED. Defendants shall have sixty (60) days
10 to depose non-party Matthew Baker and file a renewed motion for summary judgment.

11 IT IS FURTHER ORDERED that defendants' motion for summary judgment (Doc. #80) is
12 DENIED without prejudice.

13 IT IS SO ORDERED.

14 DATED this 24th day of January, 2013.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE